

AUG 31 1931

Gentlemen:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code.

The evidence submitted discloses that you were incorporated [REDACTED], under the nonprofit laws of the State of [REDACTED]. Your purposes briefly stated, are:

1. To provide for maintenance, preservation, and architectural control of the residence lots and common area, and;
2. To promote the health, safety, and welfare of the residents of the property.

Your application for exemption discloses that you have two types of Members, 1) Class A members who are homeowners, entitled to one vote for each lot owned, and 2) Class B members who are lot owners-either the developing company or builders-who are entitled to three votes for each lot owned. You state that you have [REDACTED] Class A members and [REDACTED] Class B members.

Section 501(c)(4) of the Code grants exemption to:

"Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare . . ."

Section 1.501(c)(4)-10 of the Income Tax Regulations states:

"An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is operated primarily for the purpose of bringing about civic

NAME	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
DATE	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Revenue Ruling 74-99, published in Cumulative Bulletin 1974-1, page 131 (clarified by Revenue Ruling 80-63) sets forth certain requirements that a 'Homeowners Association' must meet to qualify for exemption under Code section 501(c)(4), as set forth below:

1. It must serve a "community" which bears a reasonably recognizable relationship to an area ordinarily identified as governmental,
2. It must not conduct activities directed to the exterior maintenance of private residences, and
3. The common areas or facilities it owns and maintains must be for the use and enjoyment of the general public.

Based on the information you furnished and the applicable Law and regulations, as cited above, we conclude that you are not organized and operated for social welfare purposes and do not qualify for Federal income tax exemption under section 501(c)(4). This conclusion is based on the fact that you are currently controlled by the developer and builders who have the majority of votes within the Association. Your corporate Articles provide that you are organized to provide for the maintenance, preservation, and architectural control of residential lots (as well as common areas) and not for a "community" which bears a reasonably recognizable relationship to an area ordinarily identified as governmental.

Section 528 of the Internal Revenue Code provides that certain homeowner associations may elect to file Form 1120-H which, in effect permits the exclusion of exempt function income from gross income. This election must be made timely and must be made each year. Enclosed is a 1120-H for your information. You would otherwise be required to file your return on form 1120.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an acknowledgment of your protest, please indicate this in your protest. The instructions for filing a protest are enclosed.

If you agree with our conclusions or do not wish to file a written protest, please attach Form 8018 in the enclosed self-addressed envelope and mail it to the address indicated below.

(2)

[REDACTED]

If we do not hear from you within 30 days, this letter will be our determination in the matter.

Sincerely yours,

[REDACTED]
District Director

Enclosures:

Publication 599

Form 1120H [REDACTED]

Publication 568

Form 6018